IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 119 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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RAJPATH CLUB LIMITED

Versus

COMMISSIONER OF INCOME-TAX

Appearance:

1. INCOME TAX REFERENCE No. 119 of 1985

MR HM TALATI for Petitioner No. 1

MR BB NAIK for MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 17/08/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the assessee, the following two questions have been referred to this Court for its opinion under the provisions of sec. 256(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') by the Income Tax Appellate Tribunal, Ahmedabad Bench 'B'.

1. Whether on the facts and circumstances of the case the Tribunal was justified in law in not accepting the contention of the assessee that the applicant would be declared not liable to income-tax?

2. Whether on the facts and circumstances of the case the Tribunal was justified in law in holding that though the income and expenditure account of the club shows excess of expenditure over income the department was justified in taxing only the interest income from the banks?

2. We have heard learned advocate Shri H.M. Talati appearing for the assessee and learned advocate Shri B.B. Naik for the respondent.

3. It has been fairly submitted by the learned advocates that the questions, which have been referred to this Court for its opinion, have been answered by this Court in case of the assessee itself as well as in the case of Sports Club of Gujarat Ltd. v. CIT, 171 ITR 504. Even in the case of the assessee itself, Rajpath Club Ltd. v. CIT, 211 ITR 379, a similar question had been referred to this Court. Both the questions referred to hereinabove are quite similar to those which had been referred to this court in the above-mentioned two judgments.

4. We have carefully gone through the judgments referred to hereinabove and we are in respectful agreement with the principles laid down in the said judgments. We accordingly answer the questions in the affirmative i.e. in favour of the revenue and against the assessee.

The reference thus stands disposed of with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

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